

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.774 OF 1994

Smt.Kamalabai Jagannath Mancharkar. ...Petitioner.
Vs.
The Chief Executive Officer,
Maharashtra Housing and Area Development
Authority & Ors. ...Respondents.

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Mr. Saroj i/b. Mr. S.V. Pitre for the Petitioner.
Ms. Sushma Bhende, AGP for the Respondents.

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**CORAM : A.P. SHAH AND
DR.D.Y.CHANDRACHUD, JJ.**

June 15, 2005.

P.C.:

The Petitioner is a poor widow, working as a Sweeper in the Maternity Home of Police Headquarters at Shivajinagar, Pune. She belongs to Scheduled Caste. In 1979, the Petitioner had applied for a tenement in a scheme floated by MHADA. The Petitioner was held eligible for the allotment of the tenement under Low Income Group and she was allotted a tenement at Sant Tukaram Nagar, Pimpri. The Petitioner has deposited an amount of Rs.16,413/- towards the price of the tenement. It is alleged by

the Petitioner that on 27th January 1994, one Mushriff Sheikh, a senior staff member in the office of MHADA along with two others came to the house of the Petitioner and taking advantage of the fact that the Petitioner had gone to work, forcibly and unauthorisedly broke open the lock of the tenement. The neighbours requested them not to break open the lock as the tenement belongs to the Petitioner. However, Mr. Sheikh removed the lock and put his own lock on the premises. The Petitioner filed a complaint at the Sant Tukaram Nagar Police Station on 21st January 1994. She also made several representations to the MHADA officials, but the possession was not restored. Therefore, the Petitioner has approached this Court seeking a direction to the Respondents to forthwith restore the tenement to her.

2. In resisting the Writ Petition, the Respondents are relying upon the affidavit in reply of Mr. V.V. Joshi, Estate Manager, Pune. Mr. Joshi has stated in his affidavit that on 15th July 1992 during the visit of the Housing Rent Collector, the tenement in question, was found open, and hence, the possession was taken by the Board in

the presence of panchas. He has also stated that the Petitioner is liable to pay the balance price of Rs.11,485/-.

3. We have heard Counsel for the parties. We fail to appreciate the stand taken by MHADA. Their officials have put their lock on the tenement without any show cause notice and without granting any opportunity of hearing to the Petitioner. As a result of this highhanded action, the Petitioner has been deprived of her tenement. It appears that by virtue of the interim order, the Petitioner has been put in possession of the tenement and, therefore, nothing survives in this petition. The petition is accordingly disposed of with direction to the Respondents to pay costs of this petition to the Petitioner quantified at Rs.2000/-.

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